

REMARKS

Introductory Comments

Reconsideration of the above-identified application in view of the above amendments and foregoing arguments is respectfully requested.

Claims 1-2 and 8-19 are pending and under consideration. Claims 3-7 have been cancelled. Claims 8-19 have been added. No new matter has been added as a result of these amendments.

Claims 1 and 2 have been amended to specify the co-polyester is a polymer since it is unclear to the Examiner whether the co-polyester is a thermoplastic or an elastomer. Claims 1 and 2 are also amended to specify the ethyl methyl acrylate is a polymer. Support for this amendment can be found on page 4, line 10. These claims have been amended elsewhere in order to place the claims in a better form, in view of the Examiner's objections. The Examiner objected to the claims because the ethyl methyl acrylate polymer of step b was not incorporated in the mixing step of step c. Applicants have amended the claim as suggested by the Examiner. Support for this can be found in the specification on page 3, line 27 to page 4, line 4. Applicants thank the Examiner for his suggestion.

Claims 8-9 correspond to cancelled claims 5-7. These claims have been rewritten in a product-by-process format and depend either on claim 1 or claim 2.

Rejection of Claims 5-7 Under 35 U.S.C. § 112, First Paragraph

Claims 5-7 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the Examiner

contends that claims 5-7 do not incorporate a material and thus would encompass any material. Claims 5-7 have been cancelled and the rejection is now moot. Withdrawal of the rejection of claims 5-7 under 35 U.S.C. § 112, first paragraph, is respectfully requested.

Rejection of Claims 1-4, 6 and 7 Under 35 U.S.C. § 112, Second Paragraph

Claims 1-4, 6 and 7 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner asserts that 1) it is unclear whether ethyl methyl acrylate is a polymer or a monomer, 2) it is unclear how the ethyl methyl acrylate polymer is used in the claimed method, and 3) the co-polyester appears to be an elastomer instead of a thermoplastic.

Claims 1 and 2 have been amended as indicated above. Specifically, Applicants have amended these claims to 1) specify that ethyl methyl acrylate is a polymer, 2) the ethyl methyl acrylate polymer is admixed with other components in step c, and 3) the co-polyester is a polymer instead of a thermoplastic.

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-4, 6 and 7 under 35 U.S.C. § 112, second paragraph.

Rejection of Claims 6 and 7 Under 35 U.S.C. § 102(b) or § 103(a)

Claims 6 and 7 are rejected under 35 U.S.C. § 102(b) as being anticipated, or in the alternative, under 35 U.S.C. § 103(a) by McAmish *et al.*, U.S. Patent No. 5,910,225 (herein "McAmish '225").

Claims 6 and 7 have been cancelled and the rejection is now moot. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 6 and 7 under 35 U.S.C. § 102(b) as being anticipated, or in the alternative, under 35 U.S.C. § 103(a) by McAmish *et al.*, U.S. Patent No. 5,910,225.

Rejection of Claims 1-7 Under 35 U.S.C. § 102(b) or § 103(a)

Claims 1-7 are rejected under 35 U.S.C. § 102(b) as being anticipated, or in the alternative, under 35 U.S.C. § 103(a) by McAmish *et al.*, U.S. Patent No. 6,191,221 (herein "McAmish '221"). Applicants respectfully traverse the rejection.

Claims 3-7 have been cancelled and the rejection is now moot. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 3-7 under 35 U.S.C. § 102(b) as being anticipated, or in the alternative, under 35 U.S.C. § 103(a) by McAmish *et al.*, U.S. Patent No. 6,191,221.

The Examiner states that the ethylene methyl acrylate (EM806009) in table 1 of McAmish '221 is interpreted as the compatibilizer as claimed. Applicants have amended the claim to include the ethyl methyl acrylate polymer in the mixture of step c such that the compatibilizer is not an ethyl methyl acrylate polymer. Thus, the ethylene methyl acrylate of McAmish '221 cannot be interpreted as both the ethyl methyl acrylate polymer and the compatibilizer.

The Examiner also states that the recited temperature of 375°C by McAmish '221 at column 4, line 16 inherently meets the instant temperature. Applicants respectfully traverse this line of interpretation of the claims. Claims 1 and 2 recite "extruding the mixture into a film at a temperature at least 10% higher than the melt temperature of the co-polyester polymer". McAmish '221 does not disclose nor teach a mixture comprising at least one compatibilizer, a co-polyester polymer and an ethyl methyl acrylate polymer. As admitted by the Examiner, only the ethyl methyl acrylate polymer of McAmish '221 may be interpreted as a compatibilizer which the claims now exclude. Additionally, the extrusion temperature of 375°C by McAmish '221 is not at least 10% higher than the melt temperature of the co-polyester polymer. McAmish '221 does not disclose any temperature with respect to a co-polyester polymer. Applicants' disclosure at page 4, lines 7-15 states that "The polyester admixture is extruded through a conventional film extruder at a temperature of between 500°F and

560°F, a temperature significantly above the conventional extrusion maximum temperature of 450°F employed by those skilled in the art.

For these reasons, Applicants respectfully request withdrawal of the rejection of claims 1-7 under 35 U.S.C. § 102(b) as being anticipated, or in the alternative, under 35 U.S.C. § 103(a) by *McAmish et al.*, U.S. Patent No. 6,191,221.

Rejection of Claims 1-7 Under 35 U.S.C. § 103(a)

Claims 1-7 are rejected under 35 U.S.C. § 103(a) as being obvious over *McAmish et al.*, U.S. Patent No. 6,191,221 (herein "McAmish '221") and *Ferrera et al.*, U.S. Publication No. 2003/0091765 (herein "Ferrera"). Applicants respectfully traverse the rejection.

Claims 3-7 have been cancelled and the rejection is now moot. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 3-7 under 35 U.S.C. § 103(a) as being obvious over *McAmish et al.*, U.S. Patent No. 6,191,221 and *Ferrera et al.*, U.S. Publication No. 2003/0091765.

The Examiner states that the ethylene methyl acrylate of Ferrera at paragraph 29 is interpreted as the compatibilizer as claimed. Applicants have amended the claim to include the ethyl methyl acrylate polymer in the mixture of step c such that the compatibilizer is not an ethyl methyl acrylate polymer.

Ferrera does not cure the deficiencies of *McAmish '221*. Claims 1 and 2 recite "extruding the mixture into a film at a temperature at least 10% higher than the melt temperature of the co-polyester polymer". Ferrera does not disclose nor teach a mixture comprising at least one compatibilizer, a co-polyester polymer and an ethyl methyl acrylate polymer. The thermoplastic polymers used by Ferrera are very different as that claimed by Applicant (polyalkylene terephthalate, polyalkylene naphthalate, nylon, or polyamide; paragraph 17). As admitted by the Examiner, only the ethylene methyl acrylate polymer of Ferrera may be interpreted as a compatibilizer which the claims now exclude. Additionally, the extrusion temperature of 375°C by Ferrera is not at least 10%

higher than the melt temperature of the co-polyester polymer. Ferrera discloses an extrusion temperature of merely 250°C to 320°C (paragraph 27). Applicants' disclosure at page 4, lines 7-15 states that "The polyester admixture is extruded through a conventional film extruder at a temperature of between 500°F and 560°F, a temperature significantly above the conventional extrusion maximum temperature of 450°F employed by those skilled in the art.

For these reasons, Applicants respectfully request withdrawal of the rejection of claims 1-7 under 35 U.S.C. § 103(a) as being obvious over McAmish *et al.*, U.S. Patent No. 6,191,221 and Ferrera *et al.*, U.S. Publication No. 2003/0091765.

Applicants further submit that the prior art do not disclose nor teach admixing the co-polyester polymer, the ethyl methyl acrylate polymer and at least one compatiblizer of maleic anhydride modified polyethylene (claims 8 and 10) or ethylene acrylate (claims 9 and 11), and extuding the mixture at a temperature at least 10% higher than the melt temperature of the co-polyester polymer, nor films, composite materials and hygiene articles made thereof (claims 12-19).

CONCLUSION

Applicants respectfully submits that the claims comply with the requirements of 35 U.S.C. Sections 101, 112, 102 and 103. Accordingly, a Notice of Allowance is believed in order and is respectfully requested.


Should the Examiner have any questions concerning the above, he/she is respectfully requested to contact the undersigned at the telephone number listed below. If the Examiner notes any further matters which the Examiner believes may be expedited by a telephone interview, the Examiner is requested to contact the undersigned.

If any additional fees are incurred as a result of the filing of this paper, authorization is given to charge deposit account no. 23-0785.

Respectfully submitted,
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